

U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 01Aug2001

CASE NO. : 1988-ERA-00039

IN THE MATTER OF:

KENNETH W. HAMMER
Complainant

v.

EBASCO SERVICES, INC. and
TEXAS UTILITIES, INC.
Respondents

**RECOMMENDED DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

This is a proceeding arising under the Energy Reorganization Act (ERA), 42 U.S.C. § 5851, and its implementing regulations found at 20 C.F.R. Part 24. The parties have signed a Joint Motion to Dismiss With Prejudice and submitted a fully executed settlement agreement for approval in connection therewith.

Since the request for dismissal is based on an agreement entered into by the parties, it is necessary to review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. **See** 29 C.F.R. § 24.6. **See also** **McDowell v. Doyon Drilling Services, Ltd.**, 1996-TSC-8 (ARB May 19, 1997); **Darr v. Precise Hard Chrome**, 1995-CAA-6 (Sec'y May 9, 1995); **McGlynn v. Pulsair, Inc.**, 1993-CAA-2 (Sec'y June 8, 1993); **Hoffman v. Fuel Economy Contracting**, 1987-ERA-33 (Sec'y Aug. 4, 1989); **Milewski v. Kansas Gas & Electric Co.**, 1985-ERA-21 (Sec'y Jan 15, 1988)(order), **aff'd on recon**, (Sec'y Apr. 23, 1990)(order); **Glass v. U.S. Environmental Protection Agency**, ARB No. 96-153, ALJ No. 1995-CAA-16 (ARB July 19, 1996); **Beliveau v. Naval Undersea Warfare Center**, ARB nos. 00-073, 01-017, 01-019, ALJ Nos. 1997-SDW-1, 4 and 6 (ARB Nov. 30, 2000).

The parties jointly request that this Settlement Agreement and its existence be treated as confidential, in accordance with 20 C.F.R. § 70.26.

After carefully reviewing the motion and settlement

agreement, I find and conclude that the agreement is a fair, adequate and reasonable settlement of the complaint and in the public interest.

Accordingly, it is hereby **RECOMMENDED** that the settlement agreement between the Complainant Kenneth W. Hammer and Respondents EBASCO Services, Inc. and Texas Utilities, Inc. be **APPROVED** and that the matter be **DISMISSED WITH PREJUDICE**. It is **FURTHER RECOMMENDED** that the Settlement Agreement be designated as confidential commercial information to be handled in accordance with 29 C.F.R. Part 70.26.

A
DAVID W. DI NARDI
District Chief Judge

Boston, Massachusetts
DWD:km

NOTICE: This Recommended Decision and order will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. §§ 24.8, a petition for review is timely filed with the Administrative review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210. Such a petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. **See** 29 C.F.R. §§ 24.7(d) and 24.8.